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3  
4 IN THE UNITED STATES DISTRICT COURT

5 FOR THE NORTHERN DISTRICT OF CALIFORNIA

6  
7 MARK ANTHONY LOWELL  
8 ENDSLEY, and all other Non-LPS  
9 patients who are or may be committed  
to Napa State Hospital,

10 Plaintiffs,

11 v.

12 CALIFORNIA DEPARTMENT OF  
13 STATE HOSPITALS; EDMUND G.  
BROWN; DOLLY MATTEUCCI;  
PAM AHLIN,

14 Defendants.  
15 \_\_\_\_\_/

No. C 16-4219 WHA

**ORDER OF DISMISSAL**

16 Plaintiff is a civil detainee at Napa State Hospital, and he filed this civil rights complaint  
17 pro se about problems in the law library, the access thereto, and the failure to treat civil  
18 detainees better than prisoners. On November 22, 2016, the court dismissed the complaint with  
19 leave to amend. However, plaintiff filed his claims on behalf of a a class, and his pro se and  
20 detained status made him unfit to represent a class. Plaintiff was granted leave to file an  
21 amended complaint binging his claims on his own behalf.

22 On February 22, 2017, he was granted an extension of time in which to amend his  
23 complaint because he had filed a motion for an interlocutory appeal in the United States Court  
24 of Appeals of the dismissal order. He was granted until April 1, 2017, or 28 days after a  
25 decision on his interlocutory appeal, whichever came later. The Court of Appeals denied the  
26 motion for an interlocutory appeal on March 4, 2017, but he filed a motion for rehearing en  
27 banc, which was then denied on March 26, 2017. Plaintiff then petitioned the United States  
28 Supreme Court for a writ of certiorari on July 23, 2017, and he awaits a decision on the petition.


1 He was then granted another estension of time, to and to October 15, 2017, or within 28 days of  
2 the date his petition to the United States Supreme Court for a writ of certiorari is resolved,  
3 whichever came later. Plaintiff was cautioned: “Failure to amend within the designated time  
4 and in accordance with the order of dismissal with leave to amend result in the dismissal of this  
5 case. No further extensions of time will be granted.” (ECF No. 19) (emphasis in original). The  
6 Supreme Court denied the writ on October 24, 2017, and his deadline to amend the complaint  
7 was November 21, 2017. Plaintiff did not heed the warning, and he did not file an amended  
8 complaint by that deadline, and instead he asked for an even further extension of time.

9 Plaintiff has been given one year to prepare and file his amended complaint, and he has  
10 not shown good cause for needing more time than that. The reason plaintiff gives for his latest  
11 extension of time request is that he recently lost access to an operating type-writer or printer. As  
12 he had not yet prepared the amended complaint, he states that he would have to submit a hand-  
13 written amended complaint and make copies of that amended complaint for service upon  
14 defendants, which he does not want to do “in this day and age.” This does not justify allowing  
15 more amount to cause for more time because plaintiff was never required to file a typed  
16 amended complaint or serve his amended upon defendants because they have not been served  
17 with summons or appeared. Plaintiff knows this because he filed the present motion for an  
18 extension of time written by hand and did not serve it on defendants. Plaintiff was cautioned  
19 that he would not be given a further extension of time to file his amended complaint, and that  
20 the case would be dismissed if he did not file an amended complaint in a timely manner. As he  
21 has not done so, or shown good cause why not, the request for an extension of time is **DENIED**  
22 and this case is **DISMISSED** without prejudice to filing his claims in a complaint on his own  
23 behalf and not in a pro se class action.

24 The clerk shall enter judgment and close the file.

25 IT IS SO ORDERED.

26 Dated: December 4, 2017.

  
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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE